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Comté) was really "romance" in the tenth and eleventh centuries (pp. 273, 286). Protest might be made, too, against the romantic idea that "misfortune and the Italian climate combined to ruin Otto II.'s health"—he died from an overdose of aloes taken to stop the dysentery. This kind of vague explanation of events is too frequent.

A word in conclusion about the bibliography. Like those in the preceding volumes of the series, this, too, shows that it has been compiled by a librarian instead of by the scholar to whose contribution it is supposed to be a supplement. The bibliographies throughout give evidence of mechanical design and mechanical execution, and an observation in the preface confirms this conviction. Some of the omissions are serious, especially in the list of books upon feudalism. Neither Guilhaumoz's *L'Origine de la Noblesse en France* nor Sée's *Les Classes Rurales et le Régime Domani en France au Moyen Age* (1901) is cited for French feudalism, although they are two of the most valuable books on the subject.

After "due allowance", as the editor has urged, one yet may reasonably expect to discover such classics as Inama Sternegg's *Grossgrundherrschaften*, Nitzsch's *Ministerialität und Bürgerthum*, Below's *Der Deutsche Staat des Mittelalters*, and the *Schwabenspiegel*—cited as literature upon German feudalism. Gebhardt's admirable *Handbuch der Deutschen Geschichte* is cited in the old edition instead of in the new and enlarged edition. The general bibliography also omits such important works as Manitius, *Deutsche Geschichte unter den Sächsischen und den Salischen Kaisern* (1889), Gerdes, *Geschichte des Deutschen Volkes* (1891), Franz von Löher, *Kulturgeschichte der Deutschen im Mittelalter* (1891-1892), and Kötzschke, *Deutsche Wirtschaftsgeschichte*.

On map 33, Nuremberg, Hainsburg, Pressburg, Ratzeburg, Hersfeld, Wollin ought not to have been omitted. Göttingen was not in existence in Saxon-Salian times, and Zähringen unheard of.

It is fortunate that this mediocre volume is less by nearly 150 pages than its two predecessors. Yet the cost to the purchaser is greater than before!

JAMES WESTFALL THOMPSON.

*The History of Conspiracy and Abuse of Legal Procedure.* By PERCY HENRY WINFIELD, LL.D., Lecturer in Law at St. John's and Trinity Colleges, Cambridge. (Cambridge: University Press. 1921. Pp. xxvii, 219. 20 s.)

THE effort to pervert the processes of the law to unlawful ends inevitably calls into existence other processes by way of counteraction. It is the history of this phase of legal development which forms the subject of the present volume—announced as the first of the *Cambridge Studies in English Legal History*, under the editorship of Professor

Hazeltine. Conspiracy is the first topic dealt with—for not until late in its life do we see the term “conspiracy” definitely take on a meaning broader than that of “combination to promote false accusations and suits before a Court” (p. 109)—and this topic occupies rather more than half the book. The remaining chapters survey the cognate fields of champerty and maintenance (we all remember the solicitude with which Mr. Quirk, of Quirk, Gammon, and Snap, perused these titles in *Blackstone*), embracery and misconduct of jurors, common barratry and frivolous arrests.

A matter for regret is the necessity, explained in the author’s preface, for separate publication of the material appearing as *The Present Law of Abuse of Legal Procedure* (Cambridge, 1921). The dichotomy thus attempted, the author tells us, could not be carried out in the last two chapters, so that these alone, in the present volume, bring the story down to date. While the two books together give us a connected view of the subject, the unitary arrangement of the second is likely to prove a little embarrassing to the reader who seeks to resume there the thread he has been following in the first.

The sureness of tread with which Dr. Winfield appears to move, in general, among the Year Books fails him somewhat when he comes to deal with questions of pleading. Thus, with reference to the writ of conspiracy for false indictment, he says (p. 90): “if the plaintiff made no mention of the indictment he would be met successfully by the plea ‘nul tiel record.’” This is said to have been conceded *obiter* in Trin. 9 Hen. VI., f. 26. But as, under the rules of common-law pleading, it would be out of the question to deny something not alleged, so what we find conceded is in effect that when the indictment is alleged, nul tiel record is a good plea. A similar criticism applies to the statement (p. 67 n.) that “the indictor should put in the record of the indictment. Otherwise he would be met by the replication ‘nul tiel record.’” What should have been said is that where the defendant alleges the indictment in his plea and is met by a replication of nul tiel record, then he must see to the production of the record—a fairly obvious necessity. Again, the explanation on p. 138 (note to p. 137) of what the defendant had to do in pleading specially in an action of maintenance would have been more satisfactory if it had kept in view the distinction between a plea of traverse and one in confession and avoidance. Nor are we prepared to accept the author’s apparent conclusion (pp. 136, 137) that the plaintiff, in an action of maintenance, could make the case one of general maintenance or special maintenance, at will, by the generality or particularity of the allegations in his writ and declaration. That the term “special maintenance” is applied to a particularization of the charge seems clear enough, but the difficulty is that in none of the cases cited in this connection does the particularization so characterized occur in the declaration: it comes in the replication after new matter has been advanced

by the plea. Thus the plaintiff in these cases (to use the Scots term employed by the author) is "condescending on" particularity of allegation only when he is forced to it by the character of the plea.

But any shortcomings in this highly technical province count for little in the sum of the book. Its minute examination of the sources and enlightening correlation of results with contemporary social and governmental conditions fully justify the editor's remark that the volume is the outcome of "painstaking, skilful and learned research". It exhibits, too, on the part of the author a gift for picturesque phrase which he might well have used less sparingly. Legal history has few enough votaries at the best, and to one who approaches her with the earnestness of purpose and solidity of performance here displayed she owes an indebtedness which cannot be too freely acknowledged.

ROBERT W. MILLAR.

*Histoire de la Coutume de la Prévôté et Vicomté de Paris.* Par OLIVIER MARTIN, Professeur à la Faculté de Droit de l'Université de Rennes, Chargé de Cours à la Faculté de Droit de l'Université de Paris. Tome I. (Paris: Ernest Leroux. 1922. Pp. xv, 508. 30 fr.)

ALTHOUGH the great interest and importance of the customary law which prevailed throughout the greater part of France from the tenth century to the close of the Old Régime have long been recognized, and though some of the earlier customary compilations, such as the *Établissements de Saint-Louis*, have been made the subject of brilliant studies, no one until recently has attempted a comprehensive and thoroughgoing work upon any one of the important regional customs (*coutumes générales*) throughout the whole of its history. It is such a work upon the custom of the region of Paris—or more specifically, from the close of the thirteenth century, the custom of the *prévôté et vicomté de Paris*—which has been undertaken by Olivier Martin, and the first volume of which is now at hand. First honored by the Académie des Sciences Morales et Politiques with the Prix Odilon Barrot in 1912, this extensive monograph at that time drew warm praise from so great an authority upon the history of French law and institutions as Jacques Flach. But it has since been completely rewritten after more exhaustive researches.

The present volume is taken up with a general introduction and with two books dealing with the status of persons (*condition des personnes*) and with tenures (*régime des biens*). The second volume, which is promised without too great delay, will be devoted to "l'étude de la propriété et des droits réels, le droit des gens mariés, les successions, donations, et testaments, enfin les obligations et voies d'exécution".

Of the matter now published, the introduction, besides fully describing the sources, is devoted to what may be called the external history